

## REMARKS

Reconsideration of the present application as amended is requested. In the first Office Action mailed February 13, 2004, specification was objected to for failure to provide the serial number and filing date of the related application referenced on page one of the application. The specification has been so revised and withdrawal of this objection is requested.

The drawings were objected to by the examiner because Fig. 1 did not include reference numeral 33. A copy of Fig. 1 is transmitted herewith with the proposed drawing correction indicated thereon in red ink. More particularly, Applicant proposes to add an oval with the term VIEW SEL and a reference numeral 33 to illustrate the view select switch 33 described on page 8, line 2 of the specification. No new matter has been added.

In the first Office Action, claims 1-12 and 14 were rejected for anticipation over U.S. Patent No. 6,603,508 of Hata. Independent apparatus claim 1 has been amended to incorporate the limitations of dependent claim 15 and claim 15 has been canceled. Furthermore, independent method claim 7 has been amended to incorporate therein the limitations of dependent claim 13 and claim 13 has been canceled. Claim 7 has also been amended to indicate that light from an image capture device is converted to an electrical signal, similar to the language used in claim 1. Accordingly, withdrawal of the rejection of claims 1-12 and 14 for lack of novelty over Hata is requested.

Claim 15 has been rejected for alleged obviousness over Hata in view of U.S. Patent No. 5,610,654 of Parulski et al. This obviousness rejection is respectfully traversed.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references, when combined, must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination must be found in

the prior art and must not be based on the applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

In rejecting claim 15 (now effectively claim 1) for alleged obviousness over Hata in view of Parulski et al., the examiner has failed to comply with the requirements of *In re Veck, supra*. Amended claim 1 is directed to an electronic device for displaying a buffered image that comprises an image capture device having a range of exposure times and a programmable amplifier coupled to the image capture device for automatically adjusting the strength of the electrical signal from the image capture device when a determination is made that the buffered image is sufficiently obfuscated to lack discernible features. Amended claim 1 further requires that the determination is made by a microprocessor having a stored lookup table for determining the gain needed by the programmable amplifier for helping to produce a live image at a constant frame rate under low lighting conditions.

The examiner has admitted that Hata does not state that the CPU (121) uses a stored lookup table to determine the gain needed by the programmable amplifier (105). However, the examiner, apparently, contends that it would have been obvious to modify the camera of Hata to include this feature in light of Parulski et al. However, Parulski et al. deals with eliminating image blur in an electronic camera due to camera shake or fast moving objects. More particularly, Parulski et al. discloses an automatic exposure system for an electronic still camera that sets the gain of its programmable amplifier, lens f-number, and shutter time based upon the light level reading and the lens focal length setting. Parulski et al. is not concerned with displaying a buffered image in a live view mode. Accordingly, Parulski et al. would not have suggested that the camera of Hata be modified so that the gain needed by the programmable amplifier *to produce a live image at a constant frame rate under low lighting conditions* be obtained from a stored lookup table, as required by amended claim 1. Similar to Parulski et al., in Hata the gain level of the VG amplifier 105 is increased to avoid blurring of a photograph due to movement of the camera. See column 4, lines 54 – 58 of Hata. Furthermore, the examiner's proposed modification of Hata in view of Parulski et al. would not have had a reasonable expectation of success because the feedback control described in column 3, lines 48-62 of Hata could not be reliably replaced with the lookup table approach of Parulski et al. Lastly, even if the examiner's proposed modification of Hata in light of

Parulski et al. were made, the result would still not be the invention of amended claim 1 wherein the gain for the programmable amplifier is obtained from the lookup table *for helping to produce a live view image at a constant frame rate under low lighting conditions*. Accordingly, amended claim 1, along with claims 2 – 6 and 14 that depend therefrom, are allowable over Hata in view of Parulski et al.

In the first Office Action, claim 13, now effectively amended claim 7, was rejected for alleged obviousness over Hata in view the published U.S. patent application No. US2001-0015760 of Fellegara et al. This obviousness rejection is respectfully traversed. The examiner has admitted that Hata does not state that the buffered image is repeatedly refreshed at a given frame rate independently of LCD brightness and contrast controls. The examiner's position is that since Fellegara et al. makes no mention of LCD brightness or contrast controls being associated with the frame rate, the refreshment must be independent of LCD brightness and contrast controls. Therefore, the examiner contends that it would have been obvious to include the ASIC (122) and microcontroller of Fellegara et al. in the digital camera of Hata. The examiner states that this "would provide a means for repeatedly refreshing the buffered image at a given frame rate independently of the LCD brightness and contrast controls."

Fellegara et al. does not deal with a digital still camera having a live view mode. Instead, Fellegara et al. deals with a hybrid electronic digital still camera and film camera in which it is possible to display a "working image" in a quick review mode of operation. As stated in paragraph 58 of Fellegara et al., "[a]t any time after the capture of an image and before capture of a next image, the review switch 37 can be activated by the camera operator to display the last captured working image on the main screen display unit 36 as a review image." Thus, Fellegara et al. does not suggest that the camera of Hata be modified so that a buffered image is repeatedly refreshed at a given frame rate independent of LCD brightness and contrast control. Moreover, there is nothing in Fellegara et al. to suggest any reasonable expectation of success in modifying the Hata camera to repeatedly refresh the displayed image at a given frame rate independent of LCD brightness and contrast controls. Moreover, even if a camera of Hata were modified as suggested by the examiner in view of Fellegara et al., the result would be a camera that avoids blurred images due to movement of the camera, and not a camera that avoids obfuscated images by automatically adjusting the strength of the

electrical signal from an image capture device at the same time repeatedly refreshing the displayed image at a given frame rate independently of LCD brightness and contrast controls, as required by amended claim 7. Accordingly, the allowance of claims 7-12 is requested.

The present application is in condition for allowance and notification to this effect is solicited. No additional fee is required.

Respectfully submitted,

*Michael H. Jester* 5/12/04

By: Michael H. Jester  
Attorney for Applicant(s)  
Registration No. 28,022

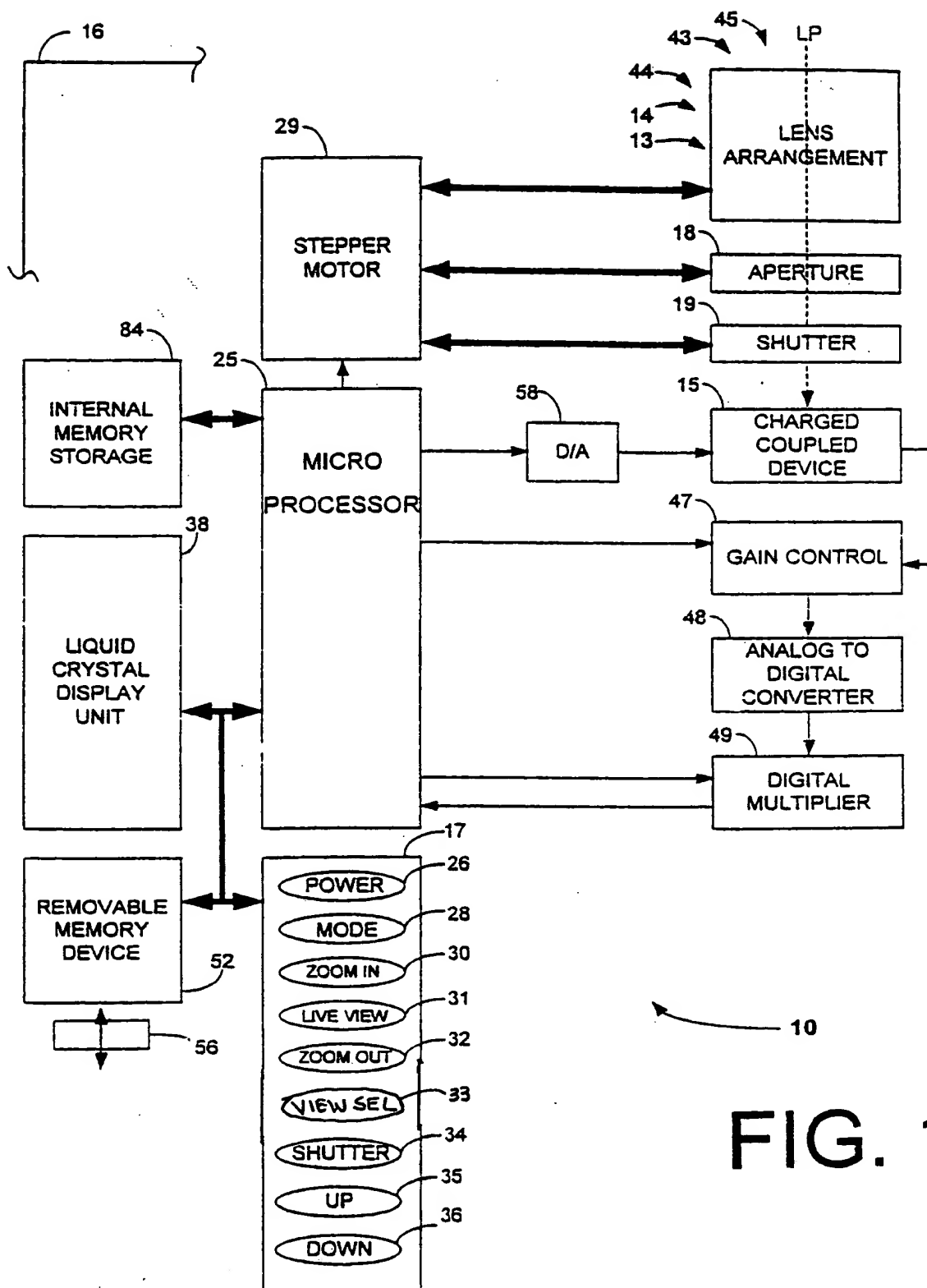


FIG. 1